

DEPARTMENT OF MENTAL HEALTH

POLICY / PROCEDURE



SUBJECT: REPORTING SUSPECTED CHILD ABUSE AND NEGLECT	POLICY NO. 202.8	EFFECTIVE DATE 10/01/89	PAGE 1 of 5
APPROVED BY: Original Signed by: ROBERTO QUIROZ Director	SUPERSEDES 203.1 10/08/82	ORIGINAL ISSUE DATE 10/08/82	DISTRIBUTION LEVEL(S) 2

PURPOSE: 1.1 To provide guidelines and Department of Mental Health (DMH) policy regarding cases of suspected child abuse and neglect.

POLICY: 2.1 Employment Requirements

2.1.1 Any person who enters into employment as a child care custodian, medical practitioner or non-medical practitioner, prior to commencing his/her employment, and as a prerequisite to that employment, shall sign a statement on a form provided by his/her employer to the effect that he/she has knowledge or and will comply with the provisions of Section 11166 of the Penal Code.

2.1.2 Although clerical and other non-treatment staff are not required to report suspected cases of child abuse, they should consult with mandated reporters upon suspecting child abuse.

2.2 Mandated Reporters

2.2.1 Section 11166 of the Penal Code requires any child care custodian, medical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his/her professional capacity or within the scope of his/her employment whom he/she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

2.2.2 "Child Care Custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certified pupil personnel employees of any public or private school; administrators of a public or private day camp; licensed administrators or employees of community care facilities licensed to care for children; headstart teachers; employees of a child protective agency, licensing workers or licensing evaluators; public assistant workers; employees of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities, social workers, and probation officers.

2.2.3 "Medical practitioner" includes physicians and surgeons, psychiatrists,

DEPARTMENT OF MENTAL HEALTH

POLICY / PROCEDURE



SUBJECT: REPORTING SUSPECTED CHILD ABUSE AND NEGLECT	POLICY NO. 202.8	EFFECTIVE DATE 10/01/89	PAGE 2 of 5
--	----------------------------	--------------------------------------	-----------------------

psychologists, dentists, residents, interns, podiatrists, chiropractors, registered psychological assistants, licensed nurses, dental hygienists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code – or persons certified under Division 2.5 of the Health and Safety Code.

2.2.4 “Non-medical practitioner” includes State or County public health employees who treat minors for venereal disease or any other condition; coroners; marriage, family or child counselors; and religious practitioners who diagnose, examine, or treat children.

2.2.5 The responsibility to report suspected cases of child abuse extends to all persons of community care facilities licensed to care for children and adults and to all staff assigned to evaluate and treat patients within the Short-Doyle system.

2.3 Reporting Responsibilities

2.3.1 Child abuse must be reported “when one acquires knowledge of or observes facts which give rise to a reasonable suspicion” – Penal Code, Section 11166(a). Reasonable suspicion occurs “when it is objectively reasonable for a person to entertain such a suspicion, based on facts that could cause a reasonable person in a like position, drawing when appropriate on his/her training and experience, to suspect child abuse” – Penal Code, Section 11166(a).

2.3.2 When two or more persons who are required to report are present and jointly have knowledge of a suspected instance of child abuse, and when there is agreement among them, the reporting requirements may be carried out by a member of the team selected by mutual consent. Any member who has knowledge that the designated member has failed to report shall make the required report. No supervisor or administrator may impede or inhibit such reporting duties. No person making such report shall be subject to any sanction for fulfilling this responsibility.

2.4 Circumstances Under Which Reporting is Mandated

DEPARTMENT OF MENTAL HEALTH

POLICY / PROCEDURE



SUBJECT: REPORTING SUSPECTED CHILD ABUSE AND NEGLECT	POLICY NO. 202.8	EFFECTIVE DATE 10/01/89	PAGE 3 of 5
--	----------------------------	--------------------------------------	-----------------------

2.4.1 A report must be made when persons, in their professional capacity, or within the scope of their employment, obtain knowledge of, or observe a child whom they reasonably suspect has been the victim of child abuse.

2.5 Reportable Child Abuse and Neglect

2.5.1 Physical injury that is inflicted by other than accidental means on a child by another person.

2.5.2 Sexual abuse – Penal Code, Section 11165(b).

2.5.3 Willful cruelty or unjustifiable punishment of a child that includes infliction of unjustifiable physical pain or mental suffering – Penal Code, Section 11165(d).

2.5.4 Cruel or inhuman corporal punishment or injury – Penal Code, Section 273(d).

2.5.5 Severe and general neglect of a child – Penal Code Section 11165(c).

2.5.6 Abuse in out-of-home care, including “negligent” abuse – Penal Code, Section 11165(f).

2.5.7 Venereal disease diagnosed in any child less than 14 years of age – Penal Code, Section 288(a) and (b) or Attorney General Opinion 83-911.

2.6 Reporting Protocol

2.6.1 When a mandated reporter suspects, by observation or acquired knowledge, that a child has been abused, an immediate telephone report must be made to the Department of Children’s Services/Child Protective Services or to law enforcement. In an emergency, a telephone report must be made to the Police Department. All cases of suspected child sexual abuse must be reported to law enforcement.

2.6.2 The telephone report shall contain the name of the person making the report, the name and location of the child, the nature and extent of the

DEPARTMENT OF MENTAL HEALTH

POLICY / PROCEDURE



SUBJECT: REPORTING SUSPECTED CHILD ABUSE AND NEGLECT	POLICY NO. 202.8	EFFECTIVE DATE 10/01/89	PAGE 4 of 5
--	----------------------------	--------------------------------------	-----------------------

injury, and any information related to the specific incident of suspected child abuse being reported – Penal Code, Section 11167.

2.6.3 The telephone report shall be followed by a written report within thirty-six (36) hours. This report shall be written on Department of Justice form #SS8572 (Suspected Child Abuse Report 11166) which has instructions for completion on the back of the form. This completed form is routed to the agency that received the telephone report of the incident. Forms may be obtained from the Department of Children's Services/Child Protective Services or from the DMH/Children and Youth Services Bureau, Coordinator of Child Abuse Services.

2.6.4 All mandated reporters within the Short-Doyle system are also required to complete the "Suspected Child Abuse and Neglect Report" (LAC/DMH/CYSB: 1/27/82) form whenever instances of child abuse are discovered in their treatment of Short-Doyle patients. These forms are to be sent to the Child Abuse Services Coordinator.

2.7 Legal Liability/Immunity

2.7.1 Penal Code, Section 11172, provides that persons required to make reports of known or suspected instances of child abuse are immune from civil or criminal liability for making a required or authorized report. Failure to report child abuse is a misdemeanor, punishable by confinement in the County jail for a term not to exceed six (6) months or by a maximum fine of \$1,000 or by both.

2.7.2 Mandated reporters who provide child protective agencies with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of the access. Because immunity from liability does not eliminate the possibility that actions may be brought against mandated reporters, claims for reasonable attorney' fees incurred in any action against that person on the basis of making the required report may be presented to the State Board of Control for review. If all requirements are met under Penal Code, Section 11172, up to a maximum of fifty thousand dollars (\$50,000) will be paid for such attorney fees.

2.8 Revocation of Privilege

DEPARTMENT OF MENTAL HEALTH

POLICY / PROCEDURE



SUBJECT: REPORTING SUSPECTED CHILD ABUSE AND NEGLECT	POLICY NO. 202.8	EFFECTIVE DATE 10/01/89	PAGE 5 of 5
--	----------------------------	--------------------------------------	-----------------------

2.8.1 Physician and psychotherapist privileges are not applicable and do not excuse or prohibit reporting of child abuse. Knowledge of child abuse obtained from either the victim or abuser must be reported.

2.9 Confidentiality vs Reporting

2.9.1 The duty to report child abuse supersedes the confidentiality provision of the Lanterman-Petris-Short Act (Welfare and Institutions Code, Section 5328).

AUTHORITY:

Welfare and Institutions Code, Section 5328
Penal Code, Sections 11165 through 11174; Sections 261, 164.1, 285, 286,
288(a) and (b), 289, 647(a), 273(1)
Attorney General's Opinion Nos. 82-302, June 1, 1982; and 83-911, June 1, 1984.
County Counsel's Opinion, July 16, 1982

ATTACHMENTS:

Form SS 8572 Suspected Child Abuse Reporting
Form LAC/DMH/CYSB - 1/27/82 Suspected Child Abuse and Neglect Report